

1 David D. Bibiyan (SBN 287811)
david@tomorrowlaw.com

2 Jeffrey D. Klein (SBN 297296)
jeff@tomorrowlaw.com

3 Sarah H. Cohen (SBN 330700)
sarah@tomorrowlaw.com

4 **BIBIYAN LAW GROUP, P.C.**

8484 Wilshire Boulevard, Suite 500

Beverly Hills, California 90211

Tel: (310) 438-5555; Fax: (310) 300-1705

6 Attorneys for Plaintiff, MACKENZIE ANNE THOMA,
and on behalf of herself and all others similarly situated

8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA**

11 MACKENZIE ANNE THOMA, a.k.a.
12 KENZIE ANNE, an individual and on
behalf of all others similarly situated,

13
14 Plaintiff,

15 v.

16 VXN GROUP LLC, a Delaware limited
liability company; STRIKE 3
17 HOLDINGS, LLC, a Delaware limited
liability company; GENERAL MEDIA
18 SYSTEMS, LLC, a Delaware limited
liability company; MIKE MILLER, an
19 individual; and DOES 1 through 100,
20 inclusive,

21 Defendants.

CASE NO: 2:23-cv-04901-WLH
(AGRx)

*[Assigned for all purposes to the Hon.
Wesley L. Hsu]*

**RESPONSE TO NOTICE OF
SUPPLMENTAL AUTHORITY**

1 Plaintiff MACKENZIE ANNE THOMA (hereinafter referred to as “Plaintiff”)
2 respectfully submits this response to Defendants VXN GROUP, LLC., STRIKE 3
3 HOLDINGS, LLC., GENERAL MEDIA SYSTEMS, LLC., and MIKE MILLER’s
4 (hereinafter referred to collectively as “Defendants”) Notice of Supplemental
5 Authority, which erroneously cites an order from *Turesa Wilcox v. Harbor UCLA Med.*
6 *Ctr. Guild, Inc.*, 2:23-cv-02802-MCS-JC (C.D. Cal. August 14, 2023).

7 First and foremost, Defendants fail to indicate or cite any law or rule that allows
8 for a Notice of Supplemental Authority. There is no local rule or federal law that is
9 applicable to the Central District of California which states that a Notice for
10 Supplemental Authority is proper. It appears as though Defendants rely solely on HI
11 USDCT LR7.6, which is a local rule applicable exclusively to the District Courts of
12 Hawaii. Barring this rule, absolutely no other rule permits the submission of
13 supplemental authority after a motion is originally filed. This is especially true
14 considering the authority Defendants cited to, *Turesa Wilcox v. Harbor UCLA Med.*
15 *Ctr. Guild, Inc.*, 2:23-cv-02802-MCS-JC (C.D. Cal. August 14, 2023), is not from a
16 published case. Rather, it is from a minute order issued by this court for a completely
17 and totally unrelated case.

18 It does appear that Defendants may attempt to rely on CA USDCT LR7-10,
19 which states that a moving party may “no later than fourteen days before the date
20 designated for the hearing of the motion, serve and file a reply memorandum, and
21 declarations or other rebuttal evidence. Absent prior written order of the Court, the
22 opposing party shall not file a response to the reply.” If in fact this is the rule that
23 Defendants relied on in the submission of this Notice, there are several issues. First,
24 this Notice is not a reply memorandum, it is not a declaration, and it is by no means
25 relevant evidence. The Defendants themselves state that this notice is for additional
26 authorities; to be treated by this honorable court as an authority that will support their
27 *legal* argument. Defendants are attempting to circumnavigate the legal system and
28 instead attempt to have this honorable court take judicial notice of the court order in

1 question.

2 *Turesa Wilcox v. Harbor UCLA Med. Ctr. Guild, Inc.*, 2:23-cv-02802-MCS-JC
3 (C.D. Cal. August 14, 2023) is simply one judge’s interpretation and application of the
4 federal rules. When ruling on motions to remand several judges, when given the same
5 legal arguments and similar operative facts, ruled in favor of Bibiyan Law Group, P.C’s
6 other clients. Such cases include *Gonzalez v H&M Hennes & Mauritz L.P.*, 8:21-cv-
7 01611-JLS-JDE (C.D Cal. January 20, 2022), *Particia Ryan v. Mission Treatment*
8 *Services, Inc.*, 2:22-cv-04013-ODW (MARx) (C.D Cal. September 19, 2022), and
9 *Enrique Rocco v. National Distribution Centers, LLC., et al.* 5:23-cv-00623 SSS – KK
10 (C.D. Cal. April 7, 2023). The same applies to the many other complaints that Bibiyan
11 Law Group, P.C has filed for its clients. The majority of these complaints, with similar
12 law and operative facts, were not dismissed.

13

14 Dated: August 21, 2023

BIBIYAN LAW GROUP, P.C.

15

16

/s/ Sarah Cohen

17

DAVID D. BIBIYAN

18

JEFFREY D. KLEIN

19

SARAH H. COHEN

20

Attorneys for Plaintiff, MACKENZIE ANNE
THOMA, and on behalf of herself and all
others similarly situated

21

22

23

24

25

26

27

28